



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,231	09/08/2003	Casper H. S. Dik	SUN-P9390	2694
32291 7590 09/07/2007 MARTINE PENILLA & GENCARELLA, LLP 710 LAKEWAY DRIVE SUITE 200 SUNNYVALE, CA 94085			EXAMINER LEMMMA, SAMSON B	
			ART UNIT 2132	PAPER NUMBER
			MAIL DATE 09/07/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/658,231

Applicant(s)

DIK, CASPER H. S.

Examiner

Samson B. Lemma

Art Unit

2132

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22-34 is/are allowed.
- 6) ☒ Claim(s) 1-21 and 35-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. **Claims 1-45** have been examined.

Priority

2. This application does not claim priority. Therefore, the effective filing data for the subject matter defined in the pending claims of this application is **09/08/2003**.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. **Claims 1-21 and 35-45** are rejected under 35 U.S.C. 101 because the subject matter is directed to non-statutory subject matter.

5. **Claims 1-21 and 35-45** are directed to a program/software/model which are directed to either abstract idea/data structures/processes/ recited in either a system/apparatus claims and are not embodied in computer-readable media or include hardware component such as a "processor" in the claim limitations. Thus are computer listings *per se*, i.e., the descriptions or expressions of the programs, are not physical "things," nor are they statutory processes, as they are not "acts" being performed. Except the method claim recited in independent claim 22, The examiner asserts that the limitation

Art Unit: 2132

of recited in all the rest of the independent claims, does not fall within the statutory classes listed in 35 USC 101. The language of the claims raises a question as to whether the claims are directed merely to an abstract idea/software that is not tied to a technological art, environment or machine which would result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. **Claims 1-8** are rejected under 35 U.S.C. 102(e) as being anticipated by **Tucker et al** (hereinafter referred as Tucker)(U.S. Publication No. 2004/0226019 A1) (claims priority of a provisional application filed on May 9, 2003)

8. **As per independent claims 1** **Tuker discloses a privilege model interfacing with a kernel process [abstract] and implementing a framework in which super-user based processes of a plurality of processes and privilege based processes of said plurality of processes [paragraph 0049, 0053 and Figure 2b, ref. Num "100"] transparently interface with said kernel process [Figure**

Art Unit: 2132

2b, ref. Num "150"]. *(The following paragraphs, which meet the limitation of the claims, are shown here. For instance on the abstract the following has been disclosed on the abstract, "the present invention provides techniques for managing activities of processes using **a fine grained privilege model in an operating system environment partitioned into a global zone and one or more non-global zones** for isolating processes from processes executing in association with other non-global zones under **control of a single operating kernel instance.**"*

Furthermore on paragraph 0049, the following has been disclosed. "In one embodiment, the operating system environment 100 may evaluate one or more of whether user identifier UID A1 245-1(a) and user identifier UID A2 245-2(a) are the same, **whether user identifier UID A2 245-2(a) is a special privileged user identifier, such as a super-user** for example, or whether process A1 174-1(a) is in possession of a privilege enabling it to take control of processes belonging to other user identifiers, such as PRIV_PROC_OWNER for example, in determining whether to grant the request by process A1 174-1(a). For example, if user identifier UID A1 245-1(a) and user identifier UID A2 245-2(a) are equivalent, or if process A1 174-1(a) is in possession of a PRUV_PROC_OWNER privilege, then the request by process A1 174-1(a) to obtain control over target process A2 174-2(a) will be granted if process A1 174-1(a) has at least as many privileges as possessed by target process A2 174-2(a). And finally paragraph 0053, further discloses the following. "in order to determine whether to grant the request to change that process' association from user identifier UID A1 245-1(a) to user identifier UID A2 245-2(a) based upon one or more criteria. In one embodiment, a process of the **operating system environment 100 may determine one or more of whether user identifier UID A2 245-2(a) is a special privileged user identifier, such as a super-user** for example, or whether process A1 174-

Art Unit: 2132

1(a) is in possession of a privilege enabling it to take control of processes belonging to other user identifiers, such as PRIV_PROC_SETID")

9. **As per claim 2 Tucker discloses discloses a privilege model as applied to claims above. Furthermore Tucker discloses the method, wherein said kernel process is capable of enforcing a security policy on said plurality of processes, said enforcing based on privileges held by each of said plurality of processes. [Paragraph 0031] (Some embodiments can control access to computational objects and resources by processes executing in a single kernel operating system environment using a fine grained privilege model.)**
10. **As per claim 3 Tucker discloses discloses a privilege model as applied to claims above. Furthermore Tucker discloses the method, wherein a plurality of privilege sets is associated with each process of said plurality of processes.[Abstract and figure 2b]**
11. **As per claim 4-8 Tucker discloses discloses a privilege model as applied to claims above. Furthermore Tucker discloses the method, wherein a plurality of privilege sets is associated with each process of said plurality of processes. [See claims 5-6]**

Allowable Subject Matter

12. **Claims 9-45** would be allowable if rewritten to overcome the 101 non-statutory rejection set forth in this office action.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.(See PTO-Form 892).

Art Unit: 2132

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samson B Lemma whose telephone number is 571-272-3806. The examiner can normally be reached on Monday-Friday (8:00 am---4:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, BARRON JR GILBERTO can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571 -873-8300.

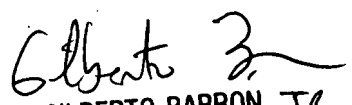
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SAMSON LEMMA

**S.L.
08/12/2007**


**GILBERTO BARRON JR
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100**